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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,046	12/17/1999	TOSHIYUKI OHKUBO	1232-4605	9718

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MICHAEL M. MURRAY
MORGAN & FINNEGAN L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

EXAMINER	
VU, NGOC YEN T	
ART UNIT	**PAPER NUMBER**
2612	7

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

KS

Office Action Summary	Application No.	Applicant(s)	
	09/466,046	OHKUBO, TOSHIYUKI	
	Examiner	Art Unit	
	Ngoc-Yen T. Vu	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 December 1999* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 December 1999* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10-11, 13 and 15-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue (US #5,710,954).

Regarding claim **1**, in figures 17-36 Inoue '954 teaches an apparatus comprising:

(A) an image pickup device (209) which picks up an object image (col. 25 lines 1-20);

(B) an instruction device (col. 19 lines 57-61; col. 27 line 20+) which gives an instruction for causing said image pickup device to pick up an object image for photo-taking; and

(C) an evaluation device (control circuit 237) which, on the basis of (i) a state of an object existing before said image pickup device picks up an object image for photo-taking in response to the instruction of said instruction device and (ii) an object image picked up by said image pickup device for photo-taking, evaluates the object image (col. 25 line 1 – col. 26 line 54; col. 27 line 15 – col. 28 line 43).

As to claim **2**, Inoue '954 teaches that said instruction device includes a shutter release switch (col. 19 lines 57-61; col. 27 line 20+).

As to claim **3**, Inoue '954 teaches that said evaluation device compares a state of an object existing before said image pickup device picks up an object image for photo-taking with a state of an object determined from an object image picked up by said image pickup device for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claim **4**, Inoue '954 teaches that said evaluation value detects a state of an object existing before said image pickup device picks up an object image for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claim **5**, Inoue '954 teaches that said evaluation device determines a difference between a state of an object existing before said image pickup device picks up an object image for photo-taking and a state of an object determined from an object image picked up by said image pickup device for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claim **6**, Inoue '954 teaches that said evaluation device determines a difference between a state in distance of an object existing before said image pickup device picks up an object image for photo-taking and a state in distance of an object determined from an object image picked up by said image pickup device for photo-taking (col. 6 lines 46+; col. 29 lines 32-39).

As to claim **7**, Inoue '954 teaches that said evaluation device determines a difference between a state in luminance of an object existing before said image pickup device picks up an object image for photo-taking and a state in luminance of an object determined from an object image picked up by said -image pickup device for photo-taking (Figs. 25 & 36, luminance signal processing circuit 212; col. 6 lines 55+; col. 25 lines 10+).

As to claim **8**, Inoue '954 teaches that said evaluation device determines a difference between a state in color of an object existing before said image pickup device picks up an object image for photo-taking and a state in color of an object determined from an object image picked up by said image pickup device for photo-taking (Figs. 25 & 36, chrominance signal processing circuit 213).

As to claim **10**, Inoue '954 teaches that said evaluation device determines a difference between a state in luminance of an object existing before said image pickup device picks up an object image for photo-taking and a state in luminance of an object determined from an object image picked up by said image pickup device for photo-taking (Figs. 25 & 36, luminance signal processing circuit 212; col. 6 lines 55+; col. 25 lines 10+).

As to claim **11**, Inoue '954 teaches that said evaluation device determines a difference between a state in color of an object existing before said image pickup device picks up an object image for photo-taking and a state in color of an object determined from an object image picked up by said image pickup device for photo-taking (Figs. 25 & 36, chrominance signal processing circuit 213).

As to claim **13**, Inoue '954 teaches that said evaluation device determines a difference between a state in color of an object existing before said image pickup device picks up an object image for photo-taking and a state in color of an object determined from an object image picked up by said image pickup device for photo-taking (Figs. 25 & 36, chrominance signal processing circuit 213).

As to claim **15**, Inoue '954 teaches that said evaluation device determines a state of movement between an object existing before said image pickup device picks up an object image for photo-taking and an object determined from an object image picked up by said image pickup device for photo-taking (col. 19 lines 61-65; col. 20 line 41 – col. 21 line 2; col. 21 lines 24-26, 56-62; col. 24 lines 1-20).

As to claim **16**, Inoue '954 teaches that said instruction device includes a shutter release member, and said evaluation device detects a state of an object existing before said image pickup device picks up an object image for photo-taking in response to a first stroke of said shutter release member, and detects a state of an object from an object image picked up by said image pickup device in response to a second stroke of said shutter release member (col. 19 lines 57-61; col. 27 line 20+).

As to claim **17**, Inoue teaches a display device which makes a display according

to whether a difference between a state of an object existing before said image pickup device picks up an object image for photo--taking and a state of an object determined from an object image picked up by said image pickup device for photo-taking is not less than a predetermined value (col. 28 line 45 – col. 29 line 39).

As to claim **18**, Inoue teaches that said evaluation device changes said predetermined value in accordance with a photo-taking condition (col. 28 line 45 – col. 29 line 39).

As to claim **19**, Inoue teaches that said evaluation device changes said predetermined value in accordance with one of a flash photo-taking condition, a slow-shutter mode and an exposure compensation mode (col. 28 line 45 – col. 29 line 39).

As to claim **20**, Inoue teaches that when having determined that a difference between a state of an object existing before said image pickup device picks up an object image for photo-taking and a state of an object determined from an object image picked up by said image pickup device for photo-taking is not less than a predetermined value (col. 28 line 1 – col. 29 line 39), said evaluation device enables the object image picked up by said image pickup device for photo-taking to be prevented from being recorded in a recording device (col. 28 lines 25-29).

As to claim **21**, Inoue teaches that said evaluation device changes said predetermined value in accordance with a photo-taking condition (col. 28 line 1 – col. 29 line 39).

As to claim **22**, Inoue teaches that said evaluation device changes said predetermined value in accordance with one of a flash photo-taking condition, a slow-shutter mode and an exposure compensation mode (col. 28 line 1 – col. 29 line 39).

As to claim **23**, Inoue teaches that when having determined that a difference between a state of an object existing before said image pickup device picks up an object image for photo-

taking and a state of an object determined from an object image picked up by said image pickup device for photo-taking is not less than a predetermined value, said evaluation device prevents, in response to a predetermined instruction, the object image picked up by said image pickup device for photo-taking from being recorded in a recording device, and causes, if not receiving the predetermined instruction for a predetermined period of time, the object image picked up by said image pickup device for photo-taking to be recorded in the recording device (col. 28 line 1 – col. 29 line 39).

As to claim **24**, Inoue teaches that said evaluation device changes said predetermined value in accordance with a photo-taking condition (col. 28 line 1 – col. 29 line 39).

As to claim **25**, Inoue teaches that said evaluation device changes said predetermined value in accordance with one of a flash photo-taking condition, a slow-shutter mode and an exposure compensation mode (col. 28 line 1 – col. 29 line 39).

As to claim **26**, Inoue teaches that said apparatus includes a camera (col. 2 lines 35-39).

As to claim **27**, Inoue teaches that said apparatus includes an optical apparatus (col. 2 lines 35-39).

As to claim **30**, Inoue teaches that said evaluation device detects, by using said image pickup device, a state of an object existing before said image pickup device picks up an object image for photo-taking (col. 24 lines 7-20; col. 25 line 1 – col. 26 line 54; col. 27 line 14 –col. 30 line 12).

As to claim **31**, Inoue teaches that whether of not a difference between a state of an object determined from an object image picked up by said image pickup device for photo-taking and a state of an object existing before said image

e pickup device picks up an object image for photo-taking has a value not less than a predetermined value, said evaluation device varies control of said apparatus to be performed thereafter (col. 28 line 1 – col. 30 line 12).

Regarding claim **28**, Inoue '954 teaches an object image evaluating method, comprising a step of:

in response to an instruction for causing an image pickup device which picks up an object image to pick up an object image for photo-taking (col. 19 lines 57-61; col. 27 line 20+), on the basis of (i) a state of an object existing before said image pickup device picks up an object image for photo-taking and (ii) an object image picked up by said image pickup device for photo-taking, evaluating the object image (col. 25 line 1 – col. 26 line 54; col. 27 line 15 – col. 28 line 43).

Regarding claim **29**, Inoue '954 teaches a computer program product (Inoue teaches a microcomputer control circuit (237) in which a computer program product is inherently stored), comprising a content of:

in response to an instruction for causing an image pickup device which picks up an object image to pick up an object image for photo--taking, on the basis of (i) a state of an object existing before said image pickup device picks up an object image for photo-taking and (ii) an object image picked up by said image pickup device for photo taking, evaluating the object image (col. 25 line 1 – col. 26 line 54; col. 27 line 15 – col. 28 line 43).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 9, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue '954 in view of Haruki et al. (US #5,555,022).

As to claim **9**, claim 9 differs from Inoue in that the claim further requires that said evaluation device determines a difference between a state in color temperature of an object existing before said image pickup device picks up an object image for photo-taking and a state in color temperature of an object determined from an object image picked up by said image pickup device for photo-taking. It is noted that the camera taught in Inoue is a color camera (col. 25 lines 1-9). It is well known in the art to provide a color evaluating value correcting circuit for a color camera using in order to properly adjusting white balance adjustment according to the color temperature variation of a light source, as taught in Haruki '022 (see col. 20 line 15 – col. 21 line 65). In light of the teaching in Haruki, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the camera taught in Inoue by determine a difference between a state in color temperature as claimed in claim 9 so as to provide a proper white balance adjustment even in the case when an object having color information not within a distribution range of color information due to a color temperature variation of a light source.

As to claim **12**, claim 12 differs from Inoue in that the claim further requires that said evaluation device determines a difference between a state in color temperature of an object

existing before said image pickup device picks up an object image for photo-taking and a state in color temperature of an object determined from an object image picked up by said image pickup device for photo-taking. It is noted that the camera taught in Inoue is a color camera (col. 25 lines 1-9). It is well known in the art to provide a color evaluating value correcting circuit for a color camera using in order to properly adjusting white balance adjustment according to the color temperature variation of a light source, as taught in Haruki '022 (see col. 20 line 15 – col. 21 line 65). In light of the teaching in Haruki, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the camera taught in Inoue by determine a difference between a state in color temperature as claimed in claim 9 so as to provide a proper white balance adjustment even in the case when an object having color information not within a distribution range of color information due to a color temperature variation of a light source.

As to claim **14**, claim 14 differs from Inoue in that the claim further requires that said evaluation device determines a difference between a state in color temperature of an object existing before said image pickup device picks up an object image for photo-taking and a state in color temperature of an object determined from an object image picked up by said image pickup device for photo-taking. It is noted that the camera taught in Inoue is a color camera (col. 25 lines 1-9). It is well known in the art to provide a color evaluating value correcting circuit for a color camera using in order to properly adjusting white balance adjustment according to the color temperature variation of a light source, as taught in Haruki '022 (see col. 20 line 15 – col. 21 line 65). In light of the teaching in Haruki, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the camera taught in Inoue by determine a difference between a state in color temperature as claimed in claim 9 so as to provide a proper

white balance adjustment even in the case when an object having color information not within a distribution range of color information due to a color temperature variation of a light source.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen T. Vu whose telephone number is 703-305-4946. The examiner can normally be reached on Mon. – Fri. from 8:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

NGOC-YEN VU
PRIMARY EXAMINER
Art Unit 2612

NYV
11/16/2003